

In This Together

By Allison Bell

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Nandini Pillai Kuehn would like to help start a Consumer Operated and Oriented Plan (CO-OP) for New Mexico, and what she has read about the program troubles her.

Sen. Kent Conrad, D-N.D., proposed adding the CO-OP provisions in Section 1322 to the Patient Protection and Affordable Care Act of 2010 (PPACA) back when Democrats ran both the House and the Senate, to provide an alternative for Democrats who wanted to create a "Medicare for all" public health plan option.

A CO-OP is supposed to be a nonprofit, tax-exempt, member-owned health insurer that will sell individual and family health insurance through the new health insurance exchanges that are set to open in 2014.

PPACA Section 1322 tells the CO-OP "to use any profits to lower premiums, improve benefits, or for other programs intended to improve the quality of health care delivered to its members."

But a core CO-OP principle is, "Solvency and the financial stability of coverage should be maintained and promoted," according to draft regulations released by the U.S. Department of Health and Human Services (HHS) in July.

Kuehn, a Corrales, N.M., health services consultant, wonders whether the CO-OP regulators are thinking too much about financial risk and too little about health.

"I would urge this committee to endorse the concept that health care that targets quality and positive outcomes results in the most effective use of our health dollars in the long run," Kuehn told the CO-OP Advisory Board in a comment letter.

But Jay Ripps, a consulting actuary in the San Francisco office of Milliman Inc., said successful CO-OPs will need to be able to turn some net income into growth capital if they are to sustain their success.

A written policy should require that CO-OPs set premium rates "with the intention of generating net income, and that a portion of the net income be set aside to meet projected risk capital requirements, before any such net income is used to lower premiums, to improve benefits or quality care, or is otherwise distributed to CO-OP members," Ripps said.

Groups in dozens of states are learning about that conflict as they prepare to submit CO-OP applications to the Center for Consumer Information and Insurance Oversight (CCIIO) – the Centers for Medicare & Medicaid Services (CMS) arm oversees the CO-OP program.

Voluntary letters of intent to apply are due "as soon as possible," and the applications are due Oct. 17.

A new trade group, the National Alliance of State Health Cooperatives, Helena, Mont., says it attracted would-be CO-OP organizers from about 25 states to a conference in July.

THE RULES

Dr. Michael Shadid started the first well-known, modern U.S. cooperative major medical insurer Group Health Cooperative of Puget Sound, in Washington state in 1947. Traditional health insurance co-ops now cover about 2 million U.S. residents. The co-ops offer high-quality coverage at a good price, but not necessarily the lowest price, and coverage in the areas where the co-ops are strong is not necessarily cheaper than in other areas, according to Jordan Battani, a principal in the San Francisco office of Computer Sciences Corp.

When Conrad was promoting the CO-OP amendment, he noted in an op-ed in *USA Today* that Ace Hardware and the Associated Press are co-ops. "Cooperatives are a highly successful business model all across our country," Conrad wrote.

Analysts at the Cato Institute, Washington, said Congress would give CO-OPs unfair advantages over ordinary insurers. Some health policy analysts predicted CO-OPs could attract as many as 12 million customers.

Today, Battani said, she thinks many CO-OPs will be too small. "I don't think CO-OPs are going to be a big competitive threat in the exchanges," she said.

PPACA Section 1322 is supposed to provide a total of \$3.8 billion in loans that can be used to create CO-OPs in all 50 states and the District of Columbia.

Employer self-funded health plans, church plans, Taft-Hartley union plans, hospital-owned health care systems, the American Medical Association, Bill Gates and Wal-Mart all can sponsor CO-OPs.

Because drafters of the PPACA Section 1322 wanted to keep CO-OPs separate from traditional health insurance, they prohibited health insurance issuers, including nonprofit health insurance issuers that were in existence on or before July 16, 2009—from sponsoring CO-OPs.

"The organization's governing documents must incorporate ethics and conflict of interest standards to protect CO-OP members against insurance industry involvement and interference," HHS officials say in a preamble to the draft CO-OP regulations.

PPACA Section 1322 calls for HHS to fund at least one CO-OP per state, if possible. When evaluating applications, officials are supposed to favor applicants that have attracted private money, offer to serve entire states and will use innovative approaches to integrating care.

CO-OPs are supposed to pay an interest rate one percentage point lower than the five-year U.S. Treasury rate for the start-up loans and pay those loans back over five years.

CO-OPs are supposed to pay the solvency loans back over 15 years, with the rate set at two percentage points below the average of the 10-year and 20-year Treasury bond yields.

HHS has imposed many rules on the applicants.

To keep applications concise, for example, HHS is asking applicants to limit the main part of the application to 75 pages, and to use Times New Roman 12-point font on 8.5 x 11 paper with 1-inch margins.

A CO-OP cannot use any of the government money lent "to carry on propaganda and other activities attempting to influence legislation at the federal, state, or local level of government."

Program rules also forbid CO-OPs from using to government loans to engage in marketing. Would-be CO-OP organizers have asked how they can reconcile a possible inability to market coverage with a need to be solvent; HHS says it will define "marketing" narrowly.

For purposes of the CO-OP program, marketing "means activities that promote the purchase of a specific health care plan or explain a product's benefit structure," officials say.

HHS also has forbidden CO-OPs from converting to for-profit status.

For many CO-OP organizers, the most sobering rule has to do with application expenses: When an applicant gets a start-up loan, HHS will let the applicant use the loan to pay for accounting services, legal services, actuarial services, office space, and similar expenses.

HHS also will let the applicant use \$100,000—and only \$100,000—to pay for the feasibility study and business plan needed to create the application.

CO-OP organizers say the \$100,000 price tag for professional services is too low, but they say a bigger challenge is the rule stating that a CO-OP will get the \$100,000 only if the application is successful.

Frank Knapp Jr., president of the South Carolina Small Business Chamber of Commerce, Columbia S.C.—a group that is trying to apply to start a CO-OP—says many applicants will have to struggle to hire consultants. "You have to find someone willing to roll the dice," he said.

THE FUTURE

Once CO-OPs are running, they will need the same kinds of administrative systems and provider network contracts that the big carriers have without the big carriers' membership rolls, Battani said.

"Health insurance is about scale," Battani said. At a typical small plan, "you don't have enough leverage to really be of interest to providers."

But Elizabeth Mills, a senior counsel in the Chicago office of Proskauer Rose L.L.P. who represents health maintenance organizations and health care providers, said she believes many providers are rooting for the new CO-OPs, in part because of a PPACA provision that encourages CO-OPs to use accountable care organizations and other new strategies for paying for care.

"I would hope this would be a chance for the plans to try new and different things," Mills said.

CO-OPs also could win a sympathetic hearing from customers in health insurance markets without much competition. In nine states, one or two carriers account for a total of more than 80% of the market, according to the Commonwealth Fund, New York.

Knapp predicted in a comment letter sent to the CO-OP Advisory Board in January that his state will do little to use the new health insurance exchange system to create more competition.

"Only a nonprofit health insurance CO-OP offers hope that an exchange will provide significant competition to yield savings for small businesses," Knapp says.

Roger Neece of ESOP Advisors Inc., Reston, Va., chairman of the Health Insurance CO-OP Development Group, is helping several groups start CO-OPs. Potential sponsors are just starting to think about the CO-OP program, and it is probably too early to know whether they will come forward, Neece said.

"Research has shown that people are receptive to a nonprofit health insurance plan," Neece said. "But it's all about the plan and the execution."

Mike Sullivan, chief marketing officer at Digital Insurance Inc., Atlanta, an insurance distribution firm said the CO-OP program and the health insurance exchange program are examples of why the future looks bright for insurance advisors who can keep up. "There's a great deal of complexity being added into the system, and what's not being added is wisdom," Sullivan said. "There will absolutely be a role for an advisor."

